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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/532,915 03/22/00 HAYAKAWA

M SEL 170

MMC2/1010

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EXAMINER

SEFER, A

ART UNIT

PAPER NUMBER

2826

DATE MAILED: 10/10/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/532,915

Applicant(s)

HAYAKAWA ET AL.

Examiner

Ahmed N Sefer

Art Unit

2826

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 12 and 13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 14-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other:

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group I in Paper No. 9 is acknowledged.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

(f) he did not himself invent the subject matter sought to be patented.

3. Claims 2 and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Yamazaki et al. US Patent No. 6,048,758.

Yamazaki et al disclose (see fig. 4A and col. 8, lines 18-24) a semiconductor device having a thin film transistor, the semiconductor device comprising a silicon oxide nitride film 402 formed over a substrate 401 and semiconductor film 403 formed over the silicon oxide nitride film, wherein the silicon oxide nitride film ranges from 0.1 to 1.7 in a ratio of the concentration of oxygen (col. 3, lines 40-44) to the concentration of silicon.

As to claim 15, Yamazaki et al teach (see col. 1, lines 21-31) a semiconductor device selected from electronic equipments such as portable computer.

4. Claims 1-11 and 14-17 are rejected under 35 U.S.C. 102(f) because the applicant did not invent the claimed subject matter.

5. The present application which has different inventive entity with copending Application No. 09/739269 is a broader version of independent claims 1-2, 6-7 and dependent claim 10.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamazaki et al. US Patent No. 6,048,758.

Yamazaki et al disclose (see fig. 4A and col. 8, lines 18-24) a semiconductor device having a thin film transistor, the semiconductor device comprising a silicon oxide nitride film 402 formed over a substrate 401 and semiconductor film 403 formed over the silicon oxide nitride film, wherein the silicon oxide nitride film is about 0.2 in a ratio of the concentration of nitrogen (col. 3, lines 40-44) to the concentration of silicon.

Although the prior art does not specifically teach silicon oxide nitride film which ranges from 0.3 to 1.6 in a ratio of the concentration of nitrogen to the concentration of silicon, it would have been obvious to one skilled in the art at the time the invention was made to use nitrogen of concentration higher than 1.times.10.sup.20. It would have obvious to raise the ratio of the concentration of nitrogen to the concentration of silicon, since that would enhance the crystallization of silicon.

As to claim 14, Yamazaki et al teach (see col. 1, lines 21-31) a semiconductor

device selected from electronic equipments such as portable computer.

Double Patenting

8. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

9. Claims 1-11 and 14-17 provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-2, 6-7 and 10 of copending Application No. 09/739269. Although the conflicting claims are not identical, they are not patentably distinct from each other because the present application is a broader version of independent claims 1-2, 6-7 and dependent claim 10 of copending Application No. 09/739269.


This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Art Unit: 2826

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ahmed N Sefer whose telephone number is (703) 605-1227.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J Flynn can be reached on (703) 308-6601.

ANS
October 3, 2001



Nathan Flynn
Primary Examiner